

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 755 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 - Yes 2 to 5 - No

PARMAR RAMABHAI BABUBHAI

Versus

PRANT OFFICER

Appearance:

MR PJ VYAS for Petitioner

MR DP KINARIWALA for Respondent Nos. 2 to 4

MR.U.A. TRIVEDI, ASST.G. P. for Respondent No.1 & 5

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 18/07/97

ORAL JUDGEMENT

Rule. Learned counsel for respondent Nos. 2 to 4 waives service of rule. Learned A.G.P. appears for the respondent Nos. 1 & 5. At the request of both the sides the matter is taken up for final hearing.

The petitioner had challenged the order of the Prant Officer dated 23.12.1996 allowing the Revision

Application of the respondent Nos. 2 to 4 and remanding the matter to the Mamlatdar for a fresh consideration under Section 5(2) of the Mamlatdars' Courts Act after setting aside his order dated 22.11.1996.

The grievance of the petitioner is that before passing the order in the Revision Application the petitioner was never heard though he was a party to the Revision Application. According to the petitioner no notice was sent to him in respect of hearing of the Revision Application.

Under Section 23(2) of the Mamlatdars' Courts Act the Collector may call for and examine the record of any suit under the Act and if he considers that any proceeding, finding or order is illegal or improper he may, after due notice to the parties, pass such order thereon, not inconsistent with the Act as he thinks fit. It will be noticed that the Revisional jurisdiction of the Collector under Section 23(2) is of a wide amplitude and the statute enjoins upon the Collector a duty to hear the parties. The duty to issue notice to a party would imply duty to give adequate hearing. Since admittedly no hearing has been given to the petitioner before making of the impugned order, the impugned order is contrary to the principles of natural justice and illegal. The impugned order is, therefore, set aside and the Prant Officer is directed to decide the Revision Application afresh after hearing the concerned parties. Rule is made absolute accordingly with no order as to costs.

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